

**IN THE UNITED STATE DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND/ODESSA DIVISION**

CATALINA TORRES,
Plaintiff,

v.

**MY COMMUNITY FEDERAL CREDIT,
UNION AND JOHN DOE NOS. 1-3**
Defendant.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. 7:22-cv-24

DEFENDANT’S NOTICE OF REMOVAL

Defendant My Community Credit Union, improperly named as My Community Federal Credit Union, files this Notice of Removal pursuant to 28 U.S.C. §§ 1331, 1441 and 1446 as follows:

I. PROCEDURAL BACKGROUND

1. This is an employment discrimination lawsuit. On December 28, 2021, Plaintiff Catalina Torres (“Plaintiff”) filed her Original Petition initiating an action against Defendant My Community Credit Union in Cause No. CV58243, in the 385th Judicial District Court of Midland County, Texas (the “State Court Action”).

2. Defendant filed its Original Answer to Plaintiff’s Original Petition on February 7, 2022.

II. NATURE OF THE SUIT

3. Plaintiff brings claims against Defendant under the Family Medical Leave Act of 1993 (29 U.S.C. § 2601), Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000e), and Texas Labor Code 21.051, alleging sex discrimination and sexual harassment. Plaintiff seeks monetary damages, including but not limited to compensatory damages, future loss of income, mental anguish, pain and suffering, physical and mental impairment,

reinstatement, punitive damages, pre- and post-judgment interest, attorneys' fees, and cost of courts.

III. BASIS FOR REMOVAL

4. The Court has subject matter jurisdiction over this lawsuit based upon federal question jurisdiction. 28 U.S.C. §§ 1331, 1441(a). Federal questions jurisdiction exists in a civil matter when a claim arises "under the Constitution, law or treaties of the United States." *Id.* § 1331.

5. Federal question jurisdiction has been invoked in this case because Plaintiff's Petition alleges that the Defendant is liable for violation of the Family Medical Leave Act of 1993 (29 U.S.C. § 2601) and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000e), which are both federal statutes. *See* Pl.'s Pet. at 3, attached as Exhibit B.

6. In addition to exercising jurisdiction over Plaintiff's Title VII cause of action, this Court also has supplemental jurisdiction over Plaintiff's state law claim that arises out of Defendant's alleged violation of Chapter 21 of the Texas Labor Code. *See* 28 U.S.C. § 1367(a).

IV. REMOVAL IS PROCEDURALLY CORRECT

7. This Notice of Removal is filed within the 30-day statutory time period pursuant to 28 U.S.C. § 1446(b)(2)(B). Defendant was served with the lawsuit on January 11, 2022.

8. Pursuant to 28 U.S.C. § 1446(a), all pleadings, process orders, and all other filings in the State Court Action are attached to this Notice. Copies of the pleadings filed in the State Court Action are as follows:

- Exhibit A – Plaintiff's Original Petition;
- Exhibit B – Defendant's Original Answer;
- Exhibit C – Defendant's First Amended Answer; and

- Exhibit D – State Court’s Docket Sheet.

9. Pursuant to 28 U.S.C. § 1441(c) and 28 U.S.C. § 1446(a), Defendant removes this matter to the Midland/Odessa Division of the Western District of Texas United States District Court because it is the district within which Plaintiff’s lawsuit is pending.

10. Pursuant to 28 U.S.C. § 1446(d), Defendant will provide written notice to Plaintiff and will file a copy of this Notice of Removal with the clerk in the State Court Action.

V. REQUEST FOR RELIEF

WHEREFORE, Defendant My Community Credit Union respectfully request that the above-entitled action be removed from the 385th Judicial District Court of Midland County, Texas to the United States District Court for the Western District of Texas, Midland/Odessa Division, and for such additional and alternative relief to which it may be entitled.

Respectfully submitted,

By: /s/ Dale Jefferson

Dale Jefferson

Texas Bar No. 10607900

Federal Bar No. 9116

MARTIN DISIERE JEFFERSON & WISDOM, LLP

808 Travis, Suite 1100

Houston, Texas 77002

713.632.1700 Telephone

713.222.0101 Facsimile

jefferson@mdjwlaw.com

**ATTORNEY-IN-CHARGE FOR DEFENDANT,
MY COMMUNITY CREDIT UNION**

OF COUNSEL:

James M. Cleary, Jr.
Texas Bar No. 00783838
Federal Bar No. 15499
Cesar Escalante
Texas Bar No. 24096049
Federal Bar No. 10158
MARTIN DISIERE JEFFERSON & WISDOM, LLP
808 Travis, Suite 1100
Houston, Texas 77002
713.632.1700 Telephone
713.222.0101 Facsimile
cleary@mdjwlaw.com
escalante@mdjwlaw.com

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing instrument was served on the following via email and certified mail, return receipt requested, on February 10, 2022:

Steve Hershberger
Attorney at Law
600 No. Marienfeld St., Suite 1035
Midland, Texas 79701

*Via Email (stevehersh@sbcglobal.net)
and CMRRR (70211970000110132911)*

/s/ James M. Cleary, Jr.

James M. Cleary, Jr.